**City of Lafayette**
**Redevelopment Agency Special Meeting**

**MINUTES**

**Lafayette Community Center – Manzanita Room** **July 28, 2008**
**500 St. Mary's Road, Lafayette, California** **5:45 p.m.**

## 1. CALL TO ORDER

Chair Anderson called the meeting to order at 5:55 p.m.

## 2. ROLL CALL

Present: Agency Members: Chair Anderson, Vice Chair Tatzin, Agencymember Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Mala Subramanian, City Attorney; Ann Merideth, Community Development Director; Tony Coe, Engineering Services Manager; Joanne Robbins, City Clerk

## 3. ADOPTION OF AGENDA

**ACTION**: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

## 4. PUBLIC COMMENTS – None

## 5. STAFF REPORTS

### A. Ann Merideth, Community Development Director

**1. Approval of the two public art proposals recommended by the Library Public Art Committee for the Outdoor Plaza Corridor and Children's Activity Deck**
Recommendation: Approve the two public art proposals and authorize the Executive Director to enter contracts with the artists.

Community Development Director Merideth said the library project included funding for public art. The Agency engaged with the Oakland Museum, a Consortium member, to help with the project and that has been very helpful and a learning experience. Approximately four months ago, the Library Public Art Committee decided to have two commissions, and a call for entries was prepared for California artists. Over 130 submissions were received. Two selection panels were formed; one for the Outdoor Plaza Corridor and one for the Children's Activity Deck and panel members Erling Horn and Anne Grodin are present tonight. The art was narrowed down to 11 finalists.

Beginning on June 9, the art was on public display for two weeks, and 100 comment cards were received. The selection panels met to hear presentations from the artists, and last Thursday, the Library Public Art Committee reviewed recommendations from the selection panels under the

assistance of the Oakland Museum. Staff is bringing forward the Committee's recommendation of Brian Goggin for the Corridor and Kana Tanaka for the Deck.

She presented a sample contract which the Museum feels is the best one, and it is from the San Francisco Public Art Commission. If the Redevelopment Agency Board accepts the Committee's recommendation, the Museum and staff will start working with the individuals to get them under contract.

Vice Chair Tatzin questioned the estimated total cost of the work of underwriting the project. Ms. Merideth said the Outdoor Plaza Corridor was $245,000 and the Children's Activity Desk is $82,500 and the Museum has used some of the money in terms of reimbursement for finalists, and there is approximately $100,000 for small artwork. The costs of the artworks are firm.

Chair Anderson referred to page 5 of the contract; Reimburseables. He confirmed with Ms. Merideth those would be included within the budget. He referred to a provision in Appendix A, page 25, stating in the contract it talks about a maintenance plan being developed, but he did not see it in any of the phases and suggested it be added. Ms. Merideth noted that the maintenance plan is due in Phase 2 and identified on page 27 and she clarified with Chair Anderson this is the only area in the document it was needed.

Vice Chair Tatzin suggested changing the recommendation to, "Authorize the Executive Director to negotiate a contract and return such contract to the Redevelopment Agency for approval."

**Public Comments**:

MARY ANN HOISINGTON questioned and confirmed that representatives from Oakland Museum reviewed the public comments submitted and the two artists selected received the most and she applauded the process.

**ACTION**: It was M/S/C (Tatzin/Andersson) to approve the two public art proposals and authorize the Executive Director to negotiate a contract with the artists and return the contract to the Redevelopment Agency for final approval on the Consent Calendar. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None)..

2. **Authorization to hire Rosenow Spevacek Group, Inc. for amendments to the Lafayette Redevelopment Plan**
   Recommendation: Direct Executive Director to execute agreement with Rosenow Spevacek Group, Inc.

Community Development Director Ann Merideth said at the last meeting, Agencymembers had questions of staff which she was prepared to address.

Agencymember Federighi said she had questioned whether it was possible to negotiate a lower cost for travel and whether or not a local firm was available. Ms. Merideth said she could discuss this with them to possibly reduce costs through the number of trips to Lafayette. She believed travel expenses could be kept to a minimum and were not that large an amount.

**ACTION**: It was M/S/C (Tatzin/Andersson) to direct the Executive Director to execute an agreement with Rosenow Spevacek Group, Inc. with direction to staff to track the firm's travel budget. Vote: 5-0-0 (Ayes: Anderson Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**B. Tony Coe, Engineering Services Manager**

**1. Amendment of Technology Budget for Library Service**

Recommendation: 1) Authorize the purchase of technology equipment as recommended and allocate $383,100 from the RDA budget to fully fund this purchase; 2) Approve reimbursement agreement with County Library for the purchase of technology equipment.

Engineering Services Manager Tony Coe said the Library project includes a budget that has been allocated to purchase technology equipment to support its future functions and services. Staff has been talking to Contra Costa County Library staff to initiate the process to secure equipment. One proposed action of the Agency is to approve an arrangement whereby the County would take the lead in purchasing the equipment and the Agency would enter into a reimbursement agreement with the County, and the other is to allocate an additional $383,100 to the budget because the most recent cost of the equipment is substantially higher than anticipated over 18 months ago when the project budget was approved.

Mr. Coe referred to the table in the staff report showing the list of equipment to be purchased, County Library staff is present to answer questions on the equipment, and they have created an RFP process to select the best vendor.

Agencymember Andersson said the staff report indicated that by having the sorters, they reduce a substantial amount of time that personnel would otherwise sort. He said if the County is providing and paying for personnel, if the sorters are able to save that time, he questioned whether the County would still be providing the same number of employees who would be doing other tasks.

Mr. Coe said the personnel programming for the Library has always assumed that two automated sorters would be part of the equipment program. If the sorters were not in place, they would have to add two full-time employees. He also said that recognizing that we now have substantial cost increases in the equipment; the County has offered to contribute financially to a number of items to be purchased, which are identified in the table with asterisks, which total $146,900.

Agencymember Federighi said the report indicates that the Redevelopment Agency has an option of funding only one of the sorters so that there be no shortfall and if the County still provided its contribution of $146,900, this would eliminate the lobby book drop and she questioned whether this would be the more valuable sorter.

Mr. Coe said the County Library staff is striving to establish a very high customer service standard. The machines not only replace people but also allow for services to function much more smoothly, allows them to provide books on a timely basis and respond to customer service demands faster and more efficiently than with actual people sorting books. County Library would be better to identify which sorter is the more beneficial one.

Agencymember Federighi said it was noted that the money could be taken from the Building Contingency Fund and questioned if staff would be uncomfortable with this, and Mr. Coe said this was not his first choice due to only being halfway through the construction project; however, it was up to the Redevelopment Agency.

Vice Chair Tatzin noted that the sorters will be a new piece of equipment for the County and he questioned what were the advantages and drawbacks.

LAURA O'DONOGHUE, Deputy County Librarian, said the equipment is not new to the County; it has been placed in several libraries throughout California, and they are very prepared to implement the system. The advantages are reducing turn-around time for materials.

Vice Chair Tatzin questioned what the throughput of the machines was as compared to what the volume of need may be, and Ms. O'Donoghue said she did not have this information. She said they anticipate that the basement machine will be the heaviest used because it will be available 24 hours a day and this is why the recommendation for 8 extra large bins is needed. The 9 bin machine on the main floor will have a dual purpose; it will be available for patrons to return materials as they enter in to use the library and also the sort configuration will be able to be changed so that the items returned on the main or basement floor that belong to other libraries can be sorted directly into the bins used to transport materials.

Vice Chair Tatzin questioned the maintenance history of the machines, and Ms. O'Donoghue reported that after initial installation, the machines required on-going maintenance without any problems that would stop the equipment from operating.

Agencymember Federighi questioned whether books would need to be brought up from the basement and sorted. Ms. O'Donoghue said staff can set them up in various ways to accomplish the work and the sorting on the second floor allows them to specifically sort into bins that are used to transport to other locations. The basement sorting will allow them to capture things that can be sorted directly to go onto their shelves.

Chair Anderson questioned whether a phased approach should be pursued based on demand, and Ms. O'Donoghue said the more refined that sorting is done, the less staff intensive the process is and if it is scaled back, the system will be less efficient.

Vice Chair Tatzin suggested an alternative of purchasing an upstairs machine, books that are returned would go into a bin and someone would need to be hired to feed the books into the upstairs sorter, he voiced concern about the reliability of the equipment and new technology in general. Ms. O'Donoghue said the technology is utilized in Asia quite a bit as well in California and is getting more and more refined over time.

Agencymember Andersson questioned how kind the machines are to the books versus handling them by hand, and Ms. O'Donoghue said the machines are very gentle on the materials and discussed the conveyor system.

Chair Anderson confirmed that the service contract in the second year would cost $71,000. Vice Chair Tatzin said given the fact that financial models have been prepared for operating the Library on an-going basis, to what extent has the $71,000 maintenance cost been factored into this because it would continue after the second year. Ms. O'Donoghue said they included the figure in the model, but it was at a reduced level at about $60,000.

Chair Anderson said if the Agency goes forward with the full project, the question is where the money would come from. There is an option with some concern about taking funds from the Building Contingency Fund; another option would be to add money to the overall project which would come out of the RDA budget.

Vice Chair Tatzin supported taking the funds from the Building Contingency Fund.

Regarding the reimbursement agreement, Councilmember Andersson said he appreciated the County Library's participation.

**ACTION**: It was M/S/C (Tatzin/Andersson) to authorize the purchase of technology equipment as recommended and allocate $383,100 from the RDA budget (Contingency Fund) to fully fund the purchase; and to approve reimbursement agreement with the County Library for the purchase of technology equipment. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

## 6. ADJOURNMENT

**ACTION**: It was M/S/C (Tatzin/Federighi) to adjourn the Redevelopment Agency Special Meeting at 6:30 p.m. to the Special City Council meeting. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

APPROVED:

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Mike Anderson, Chair

ATTEST:

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Joanne Robbins, City Clerk

**City of Lafayette**
**Public Meeting Agenda**
**City Council Special Meeting**

**MINUTES**

**Lafayette Community Center** **July 28, 2008**
**500 St. Mary's Road, Lafayette, California** **7:00 p.m.**

## 1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:35 p.m.

## 2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager; Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Greg Wolff, Senior Planner; Tony Coe, Engineering Services Manager; Christine Sinnette, Senior Planner; Mala Subramanian, City Attorney; Robbins, City Clerk.

## 3. ADOPTION OF AGENDA

**ACTION**: It was M/S/C (Tatzin/Andersson) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

## 4. PUBLIC COMMENTS - None

## 5. PRESENTATIONS

**Celebrating Lafayette's 40th Birthday** - The City Council, staff and community members celebrated in Lafayette's 40th Birthday.

## 6. ADJOURNMENT

**ACTION**: It was M/S/C (Federighi/Tatzin) to adjourn the Special City Council meeting at 7:30 p.m. to the Regular meeting. Vote: 5-0-0 ( Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

APPROVED:

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Mike Anderson, Mayor

ATTEST:

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Joanne Robbins, City Clerk

**City of Lafayette**
**Public Meeting Agenda**
**City Council Regular Meeting**

**MINUTES**

**Lafayette Community Center – Manzanita Room** **July 28, 2008**
**500 St. Mary's Road, Lafayette, California** **7:30 p.m.**

## 1. CALL TO ORDER

Mayor Anderson called the meeting to order at 7:40 p.m.

## 2. ROLL CALL

Present: Mayor Anderson, Vice Mayor Tatzin, Councilmembers Andersson, Anduri and Federighi

Absent: None

Staff: Steven Falk, City Manager, Tracy Robinson, Administrative Services Director; Ann Merideth, Community Development Director; Niroop Srivatsa, Planning & Building Services Manager; Greg Wolff, Senior Planner; Tony Coe, Engineering Services Manager; Christine Sinnette, Senior Planner; Mala Subramanian, City Attorney; Joanne Robbins, City Clerk.

## 3. PLEDGE OF ALLEGIANCE – led by Mayor Anderson.

## 4. ADOPTION OF AGENDA

**ACTION**: It was M/S/C (Tatzin/Federighi) to adopt the agenda. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

## 5. PUBLIC COMMENTS

ERLING HORN, representing County Connection, reported the Contra Costa County Transit Authority is conducting a public hearing at 6:00 PM on August 11, 2008 at Lafayette City Offices, Room 265, for the purpose of discussing a possible increase in the fare to run the Concord/Lafayette/Walnut Creek area to UC Berkeley for Cal games 6-7 times a year. The cost is approximately $30 per trip and $7 is charged.

JOAN SILTONEN, Assistance League of Diablo Valley, extended appreciation and thanks for the support of Steve Falk who served on their advisory board, said last year they celebrated their 40th anniversary, updated the Council on their work with children, families and seniors, said they awarded $81,000 in scholarships, they clothed their 20,000th child this year, read and donated books, screened for vision and hearing, started Community Outreach Program for foster youth needs, said over $4.5 million in funding has come from the Wayside Inn Thrift Shop, and an Open House will be held on August 11th from 3-7 PM, and thanked Lafayette contributors.

**6. PRESENTATIONS -** None

**7. OLD BUSINESS**

**A. Steven Falk, City Manager**

**Resolution 2008-37 Giving Notice of a General Tax Measure Election on November 4, 2008, Introduce Ordinance 581 Adding Chapter 7 Title 9 of the Lafayette Municipal Code Establishing a Transactions and Use Tax, Resolution 2008-38 Requesting Contra Costa County Consolidate a Municipal General Tax Measure Election on November 4, 2008**

Recommendation: Consider adoption of Resolution 2008-37, introduction of Ordinance 581 and adoption of Resolution 2008-38.

City Manager Falk gave the staff report, discussed the City's failed roads and shortfalls in police funding, previous tax measures which have failed, increased costs and assessments for downtown maintenance and the rejection of the overlay assessment district. The Council directed staff to conduct a voter attitude survey which revealed 59% of the residents polled indicated they would be inclined to favor a sales tax measure. The Council then directed staff to schedule two public meetings wherein the Council could hear testimony regarding placing a sales tax measure on the ballot. This meeting is the second of the two hearings where the Council can consider the matter and still make the deadline for placement on the November ballot.

The issue is not whether to impose a sales tax, but whether to place a sales tax measure before voters and to let voters decide whether to tax themselves. Staff summarized arguments for and against placing the tax measure on the ballot in Table A of the staff report.

Mr. Falk and Ms. Robinson presented the following arguments for and against placing the measure on the ballot:

| Reasons to Place a Sales Tax Measure on the Ballot | Reasons Not to Place a Sales Tax Measure on the Ballot |
|---|---|
| The City faces an $1 8M gap in local road funding and, despite more than 20,000 calls for service each year, provides the lowest level of police service in Contra Costa County. | The City should operate more efficiently by eliminating programs such as landscaped medians, twinkle lights and street pole banners, senior transportation programs, etc. and use those savings to pay for essential services. |
| 59% of Lafayette residents polled indicated support for a sales tax measure. | The Lafayette Chamber of Commerce, representing 600 local businesses, opposes the idea of the sales tax. |
| The City has failed on four recent attempts to pass special measures requiring 2/3 + 1 majority. The general tax would require at least 50% +1 majority. Polls and recent local election failures suggest that no other tax that will deliver significant funding can pass. | A general tax is not constrained and could be used for any purpose. Future City Councils might allocate the funds to pay for non-essential services. |

| | |
|---|---|
| The cost to place measure before voters on the November ballot is minimal, estimated at -$4,000. Costs for special elections can be as much as $75,000. | No group or individual has stepped forward and volunteered to run a campaign for this tax measure. |
| Failure to place the measure on the ballot thwarts the voters' right to decide whether they wish to pay for better roads, enhanced patrols, and more parkland. | In a representative democracy, elected officials are entrusted to make decisions for the entire community. |
| A 3/4 cent sales tax measure could largely solve the city's road failures in nine years while bond measures for parcel taxes typically require a 30 year payoff. | The measure would be jeopardized if the City Council members do not indicate unanimous support. |
| There is little or no evidence to support the proposition that local sales tax increments drive shoppers to neighboring communities. With rising transportation costs, tax savings achieved by driving to other communities could be offset by high fuel and parking costs. | Common sense and economic theory suggests that if the price for an identical good were higher in Lafayette than in other communities, shoppers might shop elsewhere. |
| Because the measure would fund improvements on a pay-as-you-go basis, it would save millions in interest costs when compared to a bond measure. | The principle of the elasticity of demand suggests that the tax proceeds would be below staff's straight-line estimates. |
| A subset of 4,000 homeowners living on failed streets who have been disproportionately disadvantaged by the City's lack of funding could benefit from passage of the measure. | A subset of specialty retail store owners whose shoppers might flee to other cities or internet shopping could be disproportionately disadvantaged by higher sales tax rates. |
| This is the only tax option where residents from other communities would pay for Lafayette's municipal services. | Active opposition from the Chamber and other groups weakens support for the measure and jeopardizes its passage. |
| Administrative and collection costs are very low compared to other tax options. Voters in sixty four other California cities have successfully approved add-on sales tax increments, including Pacific Grove, Pismo Beach, El Cerrito, Capitola, San Rafael, and Santa Rosa. | The economy is in bad shape now. If the City is interested in this type of measure it should wait until 2010 or 2012 to put it on the ballot. |

Vice Mayor Tatzin requested an explanation from staff on the possible scenario for how a half-cent sales tax might be allocated, asked for Council comment about how the funds that came from it would be allocated, and the effect the computations have on tax for automobile sales.

City Manager Falk said if this were approved by voters, this would be a general tax as opposed to a specific tax. The proceeds would flow into the General Fund and then be available for allocation to any of the City's purposes. This Council may choose to allocate 80% towards roads, a new Council might choose to allocate the money in a different way. Staff drafted a sample allocation plan wherein a half-cent sales tax would generate about $1.5 million. Staff suggests that a good way to allocate the funds would send 2/3 of the proceeds towards road repairs, 13% toward parks and preserving open space, 13% towards beautifying and keeping the downtown looking great, and 7% towards maintaining the current downtown police patrol staffing level. The Council could choose an entirely different allocation and each year the Council could discuss its goals and allocation of funds.

Mr. Falk said regarding the last question, technically speaking, voters would consider a transaction and use tax and not a sales tax. A sales tax is a term that represents the 7.25% all California residents pay. In the instance of vehicles, trucks and boats, when a resident buys a vehicle in Concord, the sales tax generated by that purchase and sale flows to the City of Concord. When communities choose to add a transaction tax increment on top of sales tax, which is what, is being considered tonight, the proceeds of a vehicle sale for that increment accrue to the City that has approved the additional increment. He said Ms. Robinson has done some calculations and worked with Vice Mayor Tatzin to predict what the vehicle impact would be and has estimated it at approximately $200,000 annually beyond that which is created through normal purchases in Lafayette. Staff believes a half-cent sales tax option would generate an additional $1.5 million for the City of Lafayette.

Councilmember Federighi noted that the staff report discusses one-half cent and the resolution proposes a three-quarter cent sales and use tax. Mr. Falk said the public opinion poll suggested voters would be willing to support a tax of up to 1%. At the second Council meeting in June, the polling consultants suggested the Council may wish to consider something less than 1%. Therefore, staff's recommendation was for a ¾ cent tax. At the last meeting, there were many speakers who spoke in opposition to the ¾ cent sales tax and staff's impression was that this may be too high and the Council may wish to consider a one-half cent tax. He noted that State law requires it be done in quarter-cent increments.

Councilmember Anduri referred to page 3 of the staff report regarding the polling of utility and sales tax, and he confirmed the polling consultants did not test the parcel tax, but they did review the results of the failed measures.

Councilmember Andersson questioned the comparison between the opportunities in 2010 versus if the Council were not to go to the ballot for the tax in 2008. Mr. Falk said it is the opinion of the consultant that a general tax measure is more likely to pass when there is a larger turn-out such as for a Presidential election, which is different from what the City has been told in the past about special taxes. Following that logic, 2012 would be a better opportunity. In addition, because there is no incumbent running in the current Presidential election an even higher than normal turn-out is expected.

Vice Mayor Tatzin referred to the 9-year scenario of expenditures on roads and the deficit assuming different amounts of new revenue, and how much more can the City spend over what has already been allocated given the City's engineering resources. Mr. Coe said in the Five-

Year plan approved in May, in 2009 staff is fully encumbered. Starting in 2010, the Department could add another $2 million a year in projects with the current capacity.

**Public Comments**:

MARY ANN HOISINGTON said everything they need to buy can be found in Lafayette, commended City staff, commissions and the relationship with the Chamber of Commerce, suggested a compromise or smaller tax, and questioned the results of the survey.

DANIEL DEITRICK, said he is the Chair of the Lafayette Finance Review Committee which is comprised of 6 residents of the City. This committee has met 5 times so far, reviewed the 1992 study as an initial foundation, created benchmarks against other communities, and are now reviewing the current and future budget. Mr. Deitrick said he is not here to express a point of view or opinion but to make the Council aware that they are actively pursuing different opportunities to generate revenues, address expenses. Mr. Deitrick then read the Committee's mission statement.

Vice Mayor Tatzin confirmed with Mr. Deitrick that they would be meeting again in two days, the goal of the committee is to have an interim report in August, with ideally a more comprehensive report in December.

Councilmember Anduri asked for Mr. Deitrick's professional background, and Mr. Deitrick said he received his Master's degree and spent most of his life initially teaching high school and college. He then entered the business world and built and developed several large gym businesses as Chief Operating Officer and CFO. He has served as a Boardmember on the Natomas Chamber of Commerce in Sacramento, spent time in the community working on volunteer projects. Their committee is comprised of individuals with extensive accounting and CFO experience.

Councilmember Anduri confirmed none of the committee members served on City commissions/committees in the past; however, one of the members is currently involved in the Library project.

Mayor Anderson said he looks forward to the committee's report.

KIM TEJADA, Crime Prevention Commission, said at their last Commission meeting, they voted to oppose the proposed half-cent sales tax measure for the November ballot due to an inherent problem of identifying specifically where the money is going to go, said that 2/3 of the funds should not be dedicated to roads, opposed 13% of funds go toward parks and preservation of open space, cited the need for additional police presence in the downtown, and they do not support a plan where funds are thinly spread over various categories.

JIM BURNS, Lafayette Taxpayers Association, read a letter into the record, stating they overwhelmingly oppose the sales tax measure, believes the City should reprioritize spending to complete residential road repairs within 10 years and adopt a pay-as-you-go fiscal discipline. He cited increased employee expenditures, benefits, salaries and employee growth, believes the sales tax increase will further disadvantage businesses and increase outside shopping, hurt lower income residents, and asked the City not to spend its budget on repaving Mt. Diablo Boulevard again while it ignores neighborhood roads.

Councilmember Anduri said the Chamber indicated that their vote was 10 against and 3 in favor and 3 neutral, and he asked for the vote from the Taxpayers Association. Mr. Burns said he could not provide the exact numbers, but it was almost unanimous.

Councilmember Anduri questioned Mr. Burns if he had a personal position on the matter, and Mr. Burns said he is a spokesperson for the Lafayette Taxpayers Association and this was their letter. His views may be somewhat different but not in terms of the fiscal responsibility required.

Councilmember Anduri referred to the repaving of Mt. Diablo Boulevard, and he questioned if Mr. Burns knew how much was coming out of City funds as opposed to federal and state funds. Mr. Burns said they knew somewhat, but they did not have city resources to research everything; however, residents feel annoyance of the continual disruption of Mt. Diablo Boulevard and that money could be better spent regardless of where it comes from.

Councilmember Anduri noted the budget for repaving Mt. Diablo Boulevard is about $900,000; $540,000 comes from a federal grant but can only be used to repave Mt. Diablo Boulevard. Another $250,000 comes from funds from the State which must be used for arterials only. He said there is a feeling that money is being spent in the wrong places, which he disagrees with.

GEORGE BURTT, Lafayette Homeowners Council, said Vice Mayor Tatzin, Jay Lifson and Gordon Matonen gave a 2 hour presentation to them and their Board concluded that the matter should be left to the voters to decide.

Councilmember Anduri confirmed that the vote of the Lafayette Homeowners Council was 13 members unanimously in favor of the measure. He said the last time a tax was placed on the ballot and it was very close to a City election, those who live on failed roads urged the Council to put the matter on the ballot, regardless of the time to campaign. He said there may be a concern that if put on the ballot, the measure may not pass. If it does not pass, he asked Mr. Burtt if he sees this as a negative impact on future attempts. Mr. Burtt said one of the prudent things to do is to understand why it didn't pass and the City has done this before, but he believed the City must keep trying.

LEONARD HOLMES thanked the Council and staff for all the work they have done, thinks part of the cause of the failed attempts in the past were due not to overwhelming or active opposition, but because of credibility issues. He did not believe the sales tax measure was necessarily high, but the concept of continual additional taxes to cover fiscal problems without credibility is a potential for failure. He complimented staff for their work, but said resident's pocketbooks may drive them to other cities and wished the Council good luck.

LARRY PINES questioned why the Council was putting the sales tax measure on the ballot when they stand a good chance to lose, but he felt the reason might be that the Council should put it on just so it would dispel a very long-standing belief that the Council was in the pocket of the merchants. He felt people were heading for some tough economic times and cited examples of increased costs of gas, health care, water, insurance, cost of living and to put Lafayette on the map as a back-breaker was setting itself up for perception problems and the Council will hurt the smaller merchants in a big way and it will not pass.

Vice Mayor Tatzin questioned what Mr. Pines' opinion was on the way to go about it. Mr. Pines said the Council picked apart Mr. Burn's comments, Mt. Diablo Boulevard has incredible crosswalks, staff has tripled in the last few years, the Council voted a 7% across the board

increase for wages when the CPI is at 3%, and asked the Council to look for fiscal responsibility and discipline.

Councilmember Anduri noted he would be addressing Mr. Pines comments after public comments were finished.

RON WURGLER voiced concern about the velocity of the businesses moving in and out of the City which creates more of a depressed retail environment, opposed the tax at this time because it would not promote a stronger retail base, and the increase would drive the retail sector in a different direction than filling vacant spaces.

LARRY BLODGETT said he supported the last two property tax measures, believed they failed at a low margin, said he is a single store and relies heavily on local businesses, said their sales have suffered primarily from Internet sales, many people's response to an increased sales tax would alter their purchasing decisions, and thinks the timing is poor and asked the Council to continue to work on passing a parcel tax.

Councilmember Andersson questioned and confirmed with Mr. Blodgett that he agreed the timing was poor because of the general economic malaise and because Internet sales have affected many businesses; and that other factors included credibility issues. Mr. Blodgett said grant writing has been successful, but not addressed is the long-term maintenance of those projects, but he acknowledged the professional budget work done by the City.

Vice Mayor Tatzin questioned when would have been a good time to put a similar measure on the ballot, and Mr. Blodgett said about 3 years ago. He said he was much more charitable then as an individual. Vice Mayor Tatzin confirmed with Mr. Blodgett that the Chamber has never supported sales tax increases since his involvement with them.

RODNEY SWEET said he has a law practice and represents many business owners, noted there is a tremendous concern amongst his clients that this will be the "nail in the coffin" as they are seeing increased rents, utilities, they feel that the reputation of adding a sales tax would stop people from coming to Lafayette to shop, and are concerned this is another expense that will put them out of business.

Vice Mayor Tatzin questioned whether Mr. Sweet believes it was better to leave streets like Hilltop as it is and not proceed with the tax. Mr. Sweet said people were now filling in the holes themselves.

BILL WHITEMAN said he sees this as a final effort after the last two measures failed, did not see any other cities raising taxes, and did not want to see Lafayette as the leader. He suggested exercising fiscal responsibility, to redirect some of the work on Mt. Diablo Boulevard to some neighborhoods, believes people will shop elsewhere and asked the City to focus on the money it has.

Mayor Anderson closed the public comment period.

Councilmember Anduri said several speakers said the City should focus on the money it has and mentioned Mt. Diablo Boulevard. He asked Mr. Coe to explain why the City is resurfacing Mt. Diablo Boulevard. Mr. Coe said the section between First Street and Dolores Drive has not received any treatment for 15 years or longer. The condition of the section is such that cracks have begun to show up, meaning there are localized areas of failure, and pothole development.

Mr. Coe said a relatively modest treatment to replace the overlay would save the City from spending 5-10 times the money in the future to rebuild a pretty important arterial within the City's street inventory. And, the City was fortunate to obtain two grants that funded almost 90% of the cost of the project.

Councilmember Anduri believed it was important for people to receive factual information, one of the most frustrating things is how to get this information out and he believed the Council is very careful in the City's budget and spending. He said one of the reasons staff has expanded as much as it has in the last 40 years is that 40 years ago there was not a fraction of the mandates and requests for services which the City must now meet. Regarding employee costs of $117,000 per FTE, if you take out the overhead, the average salary is $83,700. The median salary is $65,000. The median household income in Contra Costa County is $85,000 which is $20,000 more of the average income of a Lafayette City employee. He said City employees are the heart of this City, Lafayette is very fortunate to have the staff it does, and they look at other cities for comparable data and he believed the City was getting great value.

Councilmember Andersson said he would like to see the measure on the ballot, thinks there is a political opportunity, said in the birthday celebration, all of the prior Councilmembers present have dealt with a City that did not have a tax base that was sufficient to provide services that citizens were asking for. He said this is something the City has worked on every year, it has had difficulty passing taxes that require a 2/3 vote, but they succeeded in the fact that a majority of the citizens supported them. He felt there is an opportunity to place a general tax on the ballot and there will be many voters out in November. Regarding economics, he believed it has been a tough year, proposed is a 9-year plan and not all of those will be difficult economically, and a decision needs to be made now to fix problems over those years. Regarding what are the other options, the City could wait two years and lose police due to state funding losses. He believes there was credit to Mr. Burtt's suggestion of letting the voters decide, but there is risk with the cost of the election which is really minimal, and that if it gets defeated, the City winds up with losing another election. He said he would like to see it on the ballot but was not willing to put it on if he does not think it will pass, and he thinks the two criteria must be that it has unanimous support by the Council and it has people willing to work on a campaign, both of which are unanswered.

Councilmember Federighi said there was no question that the City needs the dollars simply to fix roads, but she questioned if this was the right tax and the right time. She felt it was easier to reach a 50% threshold rather than a 2/3 threshold, but she was not hearing support for the measure. She has not heard favorable comments and people are not signed up to work on a campaign and a decision needs to be made tonight. To her, this is too soon after the last defeat, there is organized opposition, and her preference would not to place the measure on the ballot; however, it does not mean that if the Council majority votes to place it on, she would not be supportive of it and may look at it again for 2012.

Councilmember Anduri said he did not believe there was money that could be re-allocated, did not feel the City was ignoring neighborhood streets, the Council has allocated all available funds to them, he hates the prospect of waiting until 2010 or 2012 to start bringing up the annual level of expenditures due to maintenance needs, but he does not see how the City can do this given what was heard. He questioned what impact the higher sales tax has on merchants in areas like Lafayette, said he spent a lot of time doing Internet research and could not find anything that supported it one way or the other, and therefore, the best evidence is probably what the merchants are telling the Council. Also, he agreed with Councilmember Federighi that we should not go into this unless we have a very good chance to win. He does not see people

coming forward volunteering to campaign and if there is any organized opposition it will be difficult to pass. He said the Council did want to go out and find whether there were ways to raise funds to apply to the roads, a consultant was hired to poll, and it is fair to say the Council has had an open mind and are trying to do what is right. He also thinks that if this is placed on the ballot and not passed, the psychological impact will be very bad going forward for any other election. He said he and Vice Mayor Tatzin are available on August 6 to meet with the Roads Task Force and work on what can be done and what is needed is revenue source to get it done.

Vice Mayor Tatzin thanked all speakers, said over the last days, he and Lynn Hiden conducted a brief poll about the tax among their email contacts – specifically, their support level and whether they would participate in working on a campaign. A small percentage responded to their poll, -- 16 ayes, 9 noes and 4 undecided. Also, there were 4 people who would volunteer, 2 of which were Councilmembers, which is not encouraging. He thinks the impact on all parts of the community should be considered, we agree the roads need to be fixed but we do not agree whose responsibility it is, a majority agree better police services are needed and some disagree vehemently, we agree to use a parcel tax to fund these things, agree on using an ad valorem tax, but not 2/3. We agree on a poll on a sales tax to fund these things, and this is a poll technique which has been used with great accuracy in predicting how voters in other communities will vote. The vocal minority talks about forcing allocation of funds and they do not like each particular tax because each is unfair to someone, which is correct to an extent. He said he co-chaired the last two failed campaigns, we went out and did post-election surveys, and the people who vote no think the City has its funding priorities wrong.

He said he has asked the Lafayette Taxpayers Association to submit a proposal on how the City could find $1.6 million in the existing expenditures to fix the roads in 9 years and let the public debate the proposal, so it is easy to criticize. He felt there were three options; 1) live as best we can with the revenues the City has; 2) postpone this to 2010 or later; or 3) proceed. However, the City has neither a campaign nor a fundraising base with which to proceed, he knows that doing nothing more will not get all of the roads fixed, believes that a postponement is a definite postponement and proceeding would be a serious error and he suggested re-adjusting the City's priorities as best they can.

Mayor Anderson said one of the issues pointed out by Mr. Burtt is that we would like to see the process go forward as a community together. Clearly, this is not the time to weigh down the City's retail and commercial community with this burden. Everyone feels impacted by the economic downturn and he did not think this was the time. He hoped that everyone will take the time to look at what comes out of the task force, what comes from the review of the City's expenditures and priorities and with a community spirit, involvement and open mind and balance, look at it and make good decisions for the future. He, therefore, suggested not placing the sales tax measure on the ballot and hopefully in the next year, the City's situation can be reviewed in detail, hold more discussion, check priorities, and realize there is a structural fiscal problem that needs to be addressed by the community and the City collectively.

Councilmember Anduri said there were some comments regarding the retail situation and he did believe that the downtown retail situation is vastly superior to what it was 10 years ago and the City Manager, staff, Vice Mayor Tatzin, Chamber of Commerce and others should receive credit for that. He also believes median strips and other amenities have added to the vibrancy and experience of the downtown.

Councilmember Andersson said when the roads measure failed last June at 64% which was insufficient, the Council looked at ways of addressing this and have made progress on

determining and identifying funds that could be used for other purposes. The City saw a way to move ahead rapidly given the opportunity for the sales tax measure, but said this does not in any way eliminate the existing efforts and progress made on solving the structural problem.

**ACTION**: It was M/S/C (Tatzin/Andersson) to receive and file the item. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**8. STAFF REPORTS**

**A. Niroop Srivatsa, Planning & Building Services Manager**

**Review of the transportation section of the Moraga Specific Plan's draft Environmental Impact Report**

Recommendation: Authorize the Mayor to forward the City's consultants' comments to the Town of Moraga.

Planning and Building Services Manager Niroop Srivatsa gave the staff report, stating what is before the Council is a draft letter from Mayor Anderson to the Moraga Town Council, along with comments made by staff and the City's traffic consultant, and Joy Bhattacharya of TJKM, on the Moraga Center Specific Plan Draft EIR, particularly the traffic section of the EIR. She described the location of the subject property, size, and description of the proposed development plan, schedule for review, and the desire by the Town of Moraga to adopt the plan by October 22, 2008. The City hired TJKM Consultants to do a peer review of the traffic section. Staff's analysis shows that DEIR lacks in its analysis the impacts on Lafayette's streets and intersections and it also shows that the few mitigation measures proposed are grossly inadequate and ineffective.

Vice Mayor Tatzin discussed Moraga's strategy of facing the combination of financial needs and ABAG housing numbers, what they proposed in the mix is something similar he would propose if he had the least likely traffic generation. He also believes the traffic analysis done by them under-estimates the impacts on Lafayette and Orinda. He also cited the work that the Council is participating in on the Route of Regional Significance Plan Update for Pleasant Hill Road and Camino Pablo. The consultant has recommended setting LOS standards for Pleasant Hill Road, Highway 24 and Camino Pablo and they have come up with a series of measures we hope will get there. If they do not, then we should put our neighbors on notice that we will implement traffic control measures to allow flow of traffic through our intersection that meet our delaying standards and he questioned the appropriate time to communicate this message.

Mayor Anderson questioned whether the City is trying to lay the groundwork for a potential suit on the EIR for reasons of its inadequacy. City Attorney Subramanian said if the City were to challenge their EIR, you would need to lay out the claim and this would be the time to do it.

Councilmember Anduri questioned if the letter was sufficient to put Moraga on notice. City Attorney Subramanian said traffic concerns were addressed, but if there are other issues, the City should also identify and incorporate those into the letter. Ms. Subramanian added that the comments in the staff report on the inadequacy of the mitigation measures will also be folded into the TJKM report.

Mayor Anderson said his concern is whether the forum used is adequate to lay that foundation, and City Attorney Subramanian said if it needs to be stronger, the consultant should be alerted to this fact.

Councilmember Andersson said one concern is the methodology in the traffic analysis and the other one is the mitigation measures which are minimal at best and largely ineffective. If this is another key element of our concern, this might be made clearer. Also, if the Council believes the mitigations to be inadequate, he suggested presenting alternative mitigation measures which would be more effective than those proposed. City Attorney Subramanian said as part of the environmental review process, they will be required to respond to all comments received and this might be prudent and effective.

Ms. Srivatsa said staff may want to suggest the control of traffic flow on Moraga Road and Moraga Way and ask them to assess it in the environmental analysis to see what the results and impacts are on downtown intersections.

Councilmember Federighi believes the letter from the consultant outlines all concerns but should be worded more forcefully and she was not sure if the consultant's letter should include Vice Mayor Tatzin's suggestion. Ms. Srivatsa said she can work to make the cover letter and the consultant's letter to make them stronger and to be direct about concerns. She also noted that one mitigation measures is to signalize intersections in Lafayette which the City's own General Plan does not call for and she would propose to let the Town of Moraga know that this is inconsistent with our General Plan and we do not intend to signalize those intersections.

Mayor Anderson suggested update the report, make it stronger and to take the cover letter and revise it so it is clear that the City is expecting the Town of Moraga to respond to all comments and that the impact of this is of grave concern to the Lafayette community.

Councilmember Federighi questioned and confirmed this could be done by August 1, 2008. Chuck DeLeu said he thinks the mitigations are geared to reduce the congestion problems, but this might be against some of the principles the City believes are important to the quality of life, so we want to make sure we know what the real impacts are, whether they are under-estimating them, and also determine what would keep more of their traffic in Moraga which would have a positive effect on Lafayette and Orinda.

**Public Comments**:

LYNN HIDEN cited issues with the Downtown Specific Plan and the General Plan, and voiced concern with the City not handling the capacity of all the traffic that this development will bring. She asked for the report to go to the Downtown Specific Plan Committee and the letter, thinks Moraga must know that Lafayette will not be able to accommodate all of the traffic the plan will send our way, and thinks they should do a better job. She also wants the City to state that the inadequacies must be addressed and not just respond to it, asked them to do the proposed mitigations that work and not burden Lafayette, she does not think it is enough to simply assess traffic control, thinks we should ask that Moraga redo the numbers so that we know the worst-case situation, and we may need to install signals to address non-response or inactions. She questioned how Moraga would keep its traffic in town, did not believe it was possible, thinks we will end up with metering lights and voiced concerns with gridlock.

Mayor Anderson suggested an addition at the end of the first paragraph of the letter; "The analysis conducted by TJKM indicates that there are several deficiencies in the DEIR including, but not limited to:" He also asked to copy the Orinda City Council at the bottom of the letter, as well. Ms. Srivatsa also confirmed that the Council wanted to include the comment regarding metering in the letter.

**ACTION**: It was M/S/C (Tatzin/Federighi) to authorize the Mayor to forward the City's consultants' amended comments to the Town of Moraga. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**B. Tony Coe, Engineering Services Manager**
**Introducing Ordinance 577 amending Section 8-8122 of Chapter 8-8 of the Lafayette Municipal Code to permit active and expeditious loading, unloading and delivery or pick up of property in any place marked as a loading zone.**
Recommendation: Continue without consideration to August 11, 2008.

**ACTION**: It was M/S/C (Tatzin/Andersson) to continue the item without consideration to August 11, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**BREAK**
Mayor Anderson called for a brief break at 9:53 p.m. and thereafter reconvened the regular meeting at 10:00 p.m.

Mayor Anderson said he received a request to consider Item 9C 1 & 2 out of order. He questioned whether or not these items could be continued or heard. Ms. Srivatsa said the applicant is anxious to get direction from the City because it will determine the fate in the work of construction and will affect detrimental planning for the project. The other item is the General Plan Text Amendment to the Parks, Trails and Recreation Chapter which goes hand in hand with the impact fees. While this could be continued, she said the item took a very short time before the Planning Commission.

The Council suggested moving ahead Item 9C 1 & 2.

**B. Niroop Srivatsa, Planning & Building Services Manager**

1. **GP01-06/RZ01-06CC: KO ARCHITECTS (APPLICANT) THE WOODBURY, LLC (OWNER), P1 ZONING: Request for approval to amend the conditions of approval to allow the Developer to pay the City's impact fees prior to the issuance of the certificate of occupancy rather than prior to the issuance of a building permit. Request for approval of an exception to Section 1-624 (b) of the Lafayette Municipal Code**
   Recommendation: Approve the applicant's request to pay the City's impact fees prior to the issuance of the certificate of occupancy rather than prior to the issuance of a building permit.

Ms. Srivatsa said before the Council is a request from The Woodbury, LLC to pay the City's impact fees prior to the issuance of certificate of occupancy rather than prior to the issuance of the building permit. Given uncertainties in the housing market, financing the project has been challenging and the applicant wishes to defer payment. The project will be phased and it is the goal to pre-sell some of the condominium units to gain necessary funds. The matter was heard before the Planning and Parks, Trails and Recreation Commissions and both bodies voted to recommend approval.

Vice Mayor Tatzin said in Item 10E, the Council will consider a method for delaying payment of fees for another project of the Lamorinda Transportation Development Fee and he confirmed this was also proposed to be delayed. Ms. Srivatsa confirmed that the delay of fees would include the regional traffic mitigation fees, the parkland dedication fees, and the walkways fees.

The public hearing was opened.

**Public Comments**:

JOHN FRANK, The Woodbury, LLC, thanked staff and was available for questions.

**ACTION**: It was M/S/C (Tatzin/Andersson) to close the public hearing and approve the applicant's request to pay the City's impact fees prior to the issuance of the certificate of occupancy rather than prior to the issuance of a building permit. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

2. **GP01-08: Resolution 2008-36 Amendments to sections of the Parks, Trails and Recreation Chapter of the Lafayette General Plan**
   Recommendation: Adopt Resolution 2008-36 approving amendments to the Parks, Trails and Recreation Chapter of the 2002 Lafayette General Plan.

Ms. Srivatsa said the Parks, Trails and Recreation Commission is in the process of adopting a Parks Master Plan and during the process, staff came across text in the Parks chapter of the General Plan that is inconsistent or outdated, and this evening's action is to rectify or correct text in the General Plan. She asked the Council to adopt Resolution 2008-36 approving the amendments.

Councilmember Anduri confirmed this request counts as 1, and the first, of the 4 General Plan Amendments per calendar year.

The public hearing was opened. There were no public speakers.

**ACTION**: It was M/S/C (Tatzin/Andersson) to close the public hearing and adopt Resolution 2008-36 approving amendments to the Parks, Trails and Recreation Chapter of the 2002 Lafayette General Plan. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**7. PUBLIC HEARINGS**

**A. Greg Wolff, Senior Planner**

**GP01-05 / RZ01-05 BRUCE TORQUEMADA, LAFAYETTE PROPERTIES, (APPLICANT & OWNER), R-15 ZONING: Lafayette Park Terrace – Proposed 20 Unit Condominium Project at 3235 Mt. Diablo Court, a 2-acre site at the terminus of Mt. Diablo Court. APNs: 233-131-020 & 022**

Recommendation: 1) Continued review of project plans, take testimony from the applicant and public; 2) Introduce Ordinance 580 and continue to August 11, 2008 for second reading of Ordinance and adoption of the Mitigated Negative Declaration and approve Project subject to conditions.

Senior Planner Greg Wolff gave the staff report, stating at the conclusion of the last hearing, the Council identified four items it wanted further information and clarification on.

There was a submission of a letter from Lynn Hiden suggested that the site may not be appropriate for a multi-family residential development because of landslide and earthquake hazards. The City Engineer and staff requested the project use a technical engineer who would be most familiar with the borings that were done on site. On the dais is a packet and the City

Engineer's accompanying memo indicates he has reviewed NGO's letter and accepts their response and indicating that the conclusions and recommendations in the geotechnical exploration would not change; that information analyzed and used as a basis is consistent with the data supplied by Ms. Hiden.

The second issue was concern whether there would be impacts from excavation of the project on the row of redwood trees on the western property line. The matter was referred to the project arborist. A letter received this date indicates that he has reviewed the plans in detail and finds that the trees would not be adversely affected and would be preserved. Further, that the applicant has proposed a revision to the plan which would move the patio and retaining wall further from the trees to ensure the development is as far as possible from the trees on the subject property and most approximate to the development. Staff reviewed the letter with the City's arborist and he concurs with the content of the letter and the long-term viability of the trees.

The third issue was a recommendation for having a crosswalk and crossing phase as part of the traffic signal proposed at Mt. Diablo Boulevard and Mt. Diablo Court. The Circulation and Planning Commissions both recommend this, and therefore, staff is recommending an additional condition which would require this.

Last week, there was the desire on the part of Councilmembers to visit the Lafayette Point Condominiums closest to and most impacted by the project. Over the past two weeks, there have been three site visits and all Councilmembers have visited the site.

Staff is maintaining their recommendation that the Council take public testimony, review the items contained in the supplement and continue the matter to the next Council meeting for the second reading and adoption of the ordinance and adoption of the mitigated Negative Declaration and approval of the project, subject to conditions.

Councilmember Federighi said in the July 25, 2008 letter from Joseph Palonia that he recommends relocating the retaining wall in the area of the existing redwood trees along the western property line of Lafayette Point and also moving the outdoor terrace further away from the Lafayette Point neighbors, and suggesting it be added to conditions of approval. Mr. Wolff said staff would suggest language be added to the first condition: "In these conditions of approval, as amended by the Exhibit submitted for the meeting of July 28, 2008, "applicant" is Robin and Kris Leamy, or their successors and assigns."

Vice Mayor Tatzin disclosed that he visited the Lafayette Point sites units 30, 31, and met with the residents and applicant. Mayor Anderson disclosed his visit, as well as Councilmembers Federighi and Andersson.

Councilmember Andersson confirmed that the trigger of the crosswalk would be triggered by a request to cross.

Vice Mayor Tatzin questioned and confirmed with Joe Bologna that under the current zoning, the side yard setback is a minimum of 10 feet in an aggregate of 25 feet, so a single family home could be 10 feet from the property line.

JOE BOLOGNA, Hollman Bologna Architecture and Planning, said the staff report completely answers all four issues which were to be returned, and the fourth issue regarding preservation of the redwood trees led them to discuss this in greater detail with their arborist. They felt it

would be best and extremely straight forward if they gave every redwood tree the same opportunity and keep retaining walls 12 feet away from every tree. There were additional comments Mr. Moore would like to make regarding supplemental issues and he presented one slide from the last meeting that shows the density of the project.

Mr. Wolff agreed that the minimum side yard setback in the current zoning is a minimum of 10 feet and the minimum side yard in the proposed MRA zoning is 10 feet, as well.

AL MOORE, Land Use Attorney representing the Applicant, Danville, said they concentrated tonight on the four item reflected and could answer any questions of the Council.

Vice Mayor Tatzin questioned what Mr. Bologna's initial thoughts were in designing the best project for the site. Mr. Bologna said they tried to balance the three different critical criteria that they found in the zoning and from staff; do the least amount of excavation, bring the building down as low as they could on the hill, and try to be able to keep the building as compact as possible so they were not chewing up the site with a lot of parking. He said realistically they could push the building to all of the setbacks on all three sides and to the rear going up with a 6-tiered building on the hill, and they were told this was not a smart way to develop in this location.

Councilmember Federighi noted the letter states the terrace is being moved further away from Lafayette Point neighbors and she questioned and confirmed it would amount to 6 feet.

**Public Comments**:

LYNN HIDEN asked to know how many borings were done, asked to recommend that the public hearing be continued to another date because the minutes were not included in the Council packet from July 14, 2008.

GUY ATWOOD presented a total of 60-65 new petition signatures against the project, distributed pictures of another complex of 6 units to compare the look of what would be more compatible with the homes in transition to the development nearby, said there was a comment made that most of the things considered had to do with view, and if this is true, then he felt the neighbors have done a poor job in communicating their concerns. He identified concerns in addition to views, which include: affordability, the need to locate the project in the downtown for resources, circulation issues, landscaping, noise, lack of transition, and effects on environment, soils removal, open space removal and other concerns.

Councilmember Anduri confirmed that concerns regarding driveway access had to do with those coming from their driveways from the project during peak periods.

CAROL GRAY said she is a single family homeowner in the area, submitted a letter with many concerns relating to the mitigated Negative Declaration, the size of the units, said the height has only been reduced 6 feet, total square footage has only been reduced by 3,000 square feet or less than 10% of its original size, the location is not pedestrian-friendly, excavation and preservation of open space.

Councilmember Federighi noted the zoning was not open space, and Ms. Gray clarified that her desire is that the residents contribute to the feel of the community and she discussed the quality of the City's rural environment.

Councilmember Anduri said the zoning allows for 12 single family homes on the property and he questioned if Ms. Gray would think there would be more open space than this condominium development. Ms. Gray felt with 12 homes, there still may be some restraining factors such as setbacks and buildable land and she felt the lot was very steep. She a supported but did not think this plan was right for the property.

KRISTA MCGUIRE, Pleasant Hills and Valley Association of Homeowners, voiced opposition to the project, its impact to the hillside and environment, asked that the height not exceed 35 feet, the project design be less visible, reducing the mass and bulk making the actual footprint smaller, that the City not set a new procedure of allowing such large soil excavation on hillsides, voiced opposition to the traffic signal, the General Plan calls for protection of residential neighborhoods, privacy and quality of life and this project does not fit within the General Plan, and the previous condominium project immediately to the west was approved on the basis that it would not be influencing further growth and neighbors were assured by the City and the applicant that they would be protected from future development.

VIVIENNE HING reiterated her opposition to the project, echoed comments of the previous speaker, and thinks it would be great to focus on downtown locations for high density projects.

BECKY COURTER opposed the project, said the applicant has failed to submit a project that works in the neighborhood, that makes a good transition, opposed its bulk, mass, view and privacy impacts, and she asked the Council not to amend the General Plan to fit in what a developer proposes.

KATHY SKOVSARD said she lives in Unit 31, thanked the Council for visiting her unit, acknowledged Mr. Bologna's late alteration to the small common area which would have been close to her bedroom window by 6 feet, said all of her windows face the hillside and her approach is not because she will lose her view but she will be losing her quality of life, and hoped the Council will reject the project.

DEBORA PEVERADA said she and her sister thanked the Council to visit their homes, and asked the Council if they want to be remembered as Lafayette Council who championed for preserving the rights of the 32 homeowners at Lafayette Point and surrounding neighbors regarding their investment, intrusion of privacy and quality of life, or does the Council want to have little or no regard for residents and closed its eyes and ears to the fact that their investment, loss of privacy and quality of life will be greatly affected. And, she questioned how residents could support taxes when residents are receiving support in their quality of life through various measures.

GEORGE BURTT, Acalanes Homeowners Association, said they live at the opposite end of town, feels the request is a privilege and not a right, there is much concern from neighbors, and whatever the Council does with this application will affect their neighborhood. He sees a conflict between all parties and feels the project is overly dense and asked that the project be continued.

Councilmember Anduri referred to Mr. Burtt's statements that the project is over-dense and he questioned the reason it is bad. Mr. Burtt said the project has many mitigations associated with it and many of these would not be present had the project be proposed as 12 units, cited extensive excavation, traffic issues, and others.

Councilmember Federighi said the adjoining uses are denser than this project, and Mr. Burtt said physically, it is becoming a long wall thicket, the developer has the right to request a General Plan Amendment, but at some point things get too big and impacts things around it. His neighborhood will also be subject to this same rationale and logic when the applicant of their surrounding 62 acres comes forward and the entire City will be impacted as a result.

MARCI MONTGOMERY requested the Council vote against the project, asked that residents be served by its elected's, cited the significant non-support of the plan and also fire hazards.

GREG WOEHRLE said he has followed the project, is in support of it, said it may be changed and with the right set of conditions of approval, the project will work.

SVETLANA YANKIN discussed the visit by the Council to their property, believed trees would be damaged, branches would die and fall down, cited privacy issues, excessive excavation, dust and noise, and asked the Council not to approve the project.

ANDREY LANKIN noted the significant opposition to the project, cited privacy impacts, asked that the height of the project be lowered, damage and instability of the soil and trees due to excavation, and asked the Council not to approve the project as proposed.

SCOTT HINZ said he is completely opposed to the project and cited its significant opposition by residents at the Lafayette Point.

JOE BOLOGNA, Hollman Bologna Architecture and Planning, reiterated the Design Review and Planning Commission's approvals, discussed the project's many reductions per direction and request by the City, the subdued lighting plan, and arborist comments and verification that trees would not be damaged.

AL MOORE, Land Use Attorney representing the Applicant, Danville, quoted from the staff report, cited the Planning Commission's support, independent reviews, and its lengthy process.

Vice Mayor Tatzin referred to the percentage of reduction for the project, questioned the statement of how the area goes down to 11,800 from 44,000 square feet and it being a 72% reduction, and he confirmed it was actually a 27% reduction. He asked how the ridgeline has changed in terms of feet above sea level.

Mr. Bologna said the bottom of the building was buried in the ground by 3-4 feet and the roofline came down by 10 feet, and they now have a 9 foot high garage.

The public hearing was closed.

Vice Mayor Tatzin asked the applicant to summarize affordability levels of the project. Mr. Wolff said the applicant would cover 15% of the units, or 3 units. Two units would be at moderate income levels and one would be at the low income level. The remaining would be sold as market rate.

Vice Mayor Tatzin questioned trips per hour per unit and traffic impacts. Mr. Wolff said he would need to refer to the traffic study, but said it would be 1 per peak hour per unit, or roughly three minutes.

Councilmember Anduri referred to the most recent letter from Guy Atwood which refers to the understanding when the Lafayette Point Condominiums were approved and that its approval would not be growth-inducing and surrounding parcels cannot be developed than higher than current allowable densities which would cause an increase in traffic, noise and pollution. He asked if there were any conditions of approval or simply an understanding. Mr. Wolff said staff has not researched the approval on the adjacent property and statements made by the Commissioners or the Council at that time. Staff evaluated the project on its merits irrespective of this, but could return with the information to the Council.

City Attorney Subramanian voiced concern in considering evidence from a prior approval as to the current project approval, as there were different staff, Council and Planning Commission members and recommended the Council consider the project on its current merits.

Councilmember Anduri said this was understood when the General Plan was approved and the new General Plan called for 6 units per acre. Mr. Wolff said the General Plan update began in 1991 and the previous plan was adopted in 1974. The approach at 1991 was not to comprehensively study or make changes to the existing General Plan land use map with the exception of Rural Residential. With respect to multi-, single family, and commercial development, there were no studies or changes made.

Councilmember Federighi asked if part of this was a belief that a change in designation should not take place until there was an appropriate project, and Mr. Wolff said he believes this was part of the rationale.

Councilmember Anduri said he agrees with this, and when he was on the Planning Commission there were several individual properties that came up and the Commission said it was not going to deal with it as part of the General Plan and they were considered as individual projects, but this property was not one of them.

Vice Mayor Tatzin said it was traditional in subdivisions that the Council would include a provision saying that no further subdivision would be allowed but questioned whether or not this was enforceable. Therefore, they stopped putting this in the applications.

Mayor Anderson believed the trip to Lafayette Point was informative, he thanked residents for allowing the Council to visit, he was concerned on the effect of Unit 31 with the height of the building and roofline. He believed privacy and view issues should be considered and also how important the trees are with privacy.

Councilmember Anduri believed in Lafayette there will be situations where people are able to look into windows given density in the current General Plan, but what makes this property different is the expectation of the residents apart from what happened when Lafayette Point was established. Residents moved into the development understanding that the property next to it was not a transitional property but one zoned for single family residential use, and a “bigger box” is not necessarily acceptable. He finds the project very difficult because Lafayette needs to move to higher densities in the areas along Mt. Diablo Boulevard. He also understands the issues raised by additional traffic, disagrees with Mr. Atwood’s characterization of ABAG, likes the way parking has been handled, thinks the traffic lights serve the purpose of slowing traffic, noted the Design Review and Planning Commission support the project, but he believes it is outweighed by the expectation of the neighbors. It is not so much a density issue but the character of the property has changed from what would be seen in a single-family residential development and he cannot support the project.

Councilmember Andersson referred to letters relating to expectations of future development or non-development, there is a right for 12 units, there are many single family homes 20 or 30 feet of their neighbors, he sees leaving the upper part of the property in its natural state and the lower property developed which he believes is a significant advantage and thinks this is the trade-off made. Regarding view, he looked at the site from many areas, he does not believe it will be any more noticeable than the surrounding structures. Regarding the view from Unit 31, the owner will see the building but looking down at it. He discussed a radio test and said he did not believe sound would result in an impact. Regarding distances of single family versus multi-family, it is higher density multi-family situation but it leaves a buffer, and he agrees that the trade-off in a few extra units and leaving the upper part natural works.

Councilmember Federighi agrees with Councilmember Andersson, said the development is similar to clustering rather than spreading out homes on the property. She did not believe the development as an entrance to Lafayette was imposing, said the adjoining properties are multi-family, acknowledged the buffer of the hill that protects the single-family home, did not know what to think about the expectations of the neighbors and acknowledged concerns of Units 30 and 31. She said the direction the Council gave was to reduce the mass, height and she believes this has been accomplished and she said she could support the project.

Vice Mayor Tatzin said he did not envision this as a transition to Lafayette Point to a single family level, felt the project initially was a continuation of what Lafayette Pont was, with the exception of shared parking. He compared this with the option of 6 single family units with second units and feels the idea of having a single building is better. He also acknowledged impacts of Units 30 and 31, noted the site is complex, and he thought the mass and bulk of the building might still be too great, but was not sure whether to suggest a modification or to deny without prejudice and let the applicant figure out what to do next. What has been demonstrated to him is that having a single building is better than a series of single family homes.

Mayor Anderson believed the project needs more work, voiced concern with residents of Units 30 and 31 and suggested something be done to recognize those homeowner concerns, especially Unit 30. He felt there was enough room on the site to give people more of what they have now in terms of view and privacy other than an adjacent building and suggested something more creative. He was inclined to not continue the item but deny without prejudice and allow the applicant to return to the Council to make further improvement, such as the upper floor of the edge of the building set back or lowered to reduce the impact to Unit 30.

Vice Mayor Tatzin suggested setting it back further, but lowering it would require substantial changes to the garage structure. Mayor Anderson reiterated the impact to Unit 30 and he agreed something should be done to address it, and Councilmember Andersson confirmed the focus is on the top floor in the corner of that building. Councilmember Federighi agreed that the downstairs children's bedroom view is a great impact and elsewhere there is still the view of the hill and she questioned the direction to give to the applicant. Councilmember Andersson suggested the applicant bring back a modification to bring the corner down and back and suggested the item be continued versus denial without prejudice.

City Attorney Subramanian said she would recommend a continuance and said the applicant has indicated they could bring the modification back and the Council would not introduce the ordinance tonight.

Councilmember Anduri said the zoning is for 6 single family units per acre, but he did not believe they could fit on the site. He looks at it as getting a density bonus if the applicant were to build a condominium project with 12 units in it.

Vice Mayor Tatzin confirmed the zoning was 6 units per acre, up to 12 single family residences on 2 acres.

**ACTION**: It was M/S/C (Tatzin/Andersson) to continue the item to September 22, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**C. Christine Sinnette, Senior Planner**
**MS504-87CCII – ROBIN AND KRIS LEAMY (APPLICANTS & OWNERS), R-40 ZONING: Request for a minor subdivision to divide 19.23 acres into three lots for residential development pursuant to Chapter 6-20 and Chapter 6-30 of the Lafayette Municipal Code (LMC), located at 4123 Happy Valley Road, APN 247-010-019 and 020 ("Project"). City Council review and consideration of a supplement to an environmental impact report, the Project, and conditions of approval.**
Recommendation: 1) Conduct public hearing; 2) Consider supplement to an environmental impact report, the Project, and conditions of approval; 3) Continue to the meeting of August 11, 2008.

**EXTEND MEETING**

**ACTION**: It was M/S/C (Tatzin/Andersson) to extend the meeting to 12:40 p.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

Senior Planner Christine Sinnette gave the staff report, described the project, said in 2006 and 2007 the Planning Commission considered the subdivision, but last August the project was put on hold pending additional geotechnical studies. The studies confirmed that a previously identified landslide encompassed a larger area than originally thought and the applicant revised the project to include repair of the landslide, thereby necessitating a Supplement to the EIR (SEIR) rather than an Addendum. The Draft SEIR was reviewed in June by the Planning Commission. The Commission recommended that the Council adopt the EIR and approve the subdivision subject to conditions of approval. Staff is asking that the Council focus their review on whether or not the Supplemental EIR sufficiently identifies the potential environmental impact and the methods to avoid or reduce those impacts, the adequacy of the EIR, and scope of the project. Staff believes the Supplemental EIR presents all relevant information and reaches a conclusion regarding impacts and mitigations. Staff is recommending the Council conduct the public hearing and continue the matter to August 11, 2008.

Councilmember Anduri said he was not present at the previous meeting but read the entire report and complimented staff on the report. He discussed the history of the project, and questioned which conditions of approval will protect neighbors relating to slide impacts. Ms. Sinnette noted this is addressed as Mitigation Measure 5 and Condition 43. She discussed the landslide on parcel B and explained that the City had a peer review of all materials. Last August, additional studies were done with the scope being agreed to by the City Engineer, Alan Kropp and the engineer of record. The study indicated the slide was larger and Mitigation 5 mandates that prior to the Final Map being approved by the City, they will have to confirm the location is the one identified and then prepare the plan to fix the slide. However, the applicant is not required to fix any off-site slide and the landslide on-site will be repaired by a buttress system which will prevent it from moving onto the downhill property.

Councilmember Anduri asked how the watering issue has been addressed.

ALAN KROPP, consulting geotechnical engineer, described how the landslide is repaired and by virtue of the subsurface water being collected it will be transported away. There is a concern about how, if you get too deep in the ground, the water can get out. It may be too deep and you will be restricted by gravity and an option would be to pump water out or to not place drains below a certain depth so you could have gravity discharge of the water. Councilmember Anduri confirmed that the dewatering will not cause the de-claying of the neighbor's soil and substantial improvement will be seen from not having a landslide come onto the property and the potential small detriment of local settlement.

Vice Mayor Tatzin said if the Council were to approve this, he asked if the slide would be repaired at some point. Mr. Kropp said the general limits of the slide are clear and it is the fine-tuning that will be necessary at a later time at the Final Map point.

Vice Mayor Tatzin said to what extent what is learned will influence where the house should be sited, and Mr. Kropp said within reasonable surprise level, there will probably be small adjustments laterally and more surprises will happen depth-wise. If the house is affixed in a particular location, it is very unlikely that the slide will move laterally to impact the area where you thought you were going to put the house. Most of the surprises happen with regard to depth and fewer things surprise one with the lateral extent of the landslide.

Vice Mayor Tatzin confirmed the house site encroaches slightly into the area of the larger landslide at the southern end. Ms. Sinnette said that is true but what is being represented is a possible 15,000 square foot building site. Hillside regulations require that if a specific homesite and design are not included with an application for subdivision, then the applicant must show that there is at least 15,000 square feet on a lot with a 30% or less slope that could accommodate a home and amenities. Therefore, in approving the project, the Council is approving a subdivision with certain lot lines and a general location of where the house will go.

Vice Mayor Tatzin noted the work must be done and he questioned the benefit of postponing rather than saying it must be done now. Ms. Sinnette said we know the scope of the landslide and the form the repair will take but we do not know exactly what will have to be done as far as the excavation until a more refined study is done.

Mr. Kropp said that what is being recommended for the next phase of study is a much more expensive process. He described the more definitive concept of the work, stating the applicant wants to ensure they do the smaller diameter work now and ensure they have a project, given the costs. As a peer reviewer, he strongly recommended approving the item.

The public hearing was opened.

DAVID BOWIE, representing applicants Robin and Kris Leamy, said the project goes back to 1987 or more, said the project has had the benefit of study by at least four different soils engineering firms which he identified, said 40 different tests sites have been done. Mr. Bowie distributed a map to the Council showing all boring locations, said the project requires no variance, and is consistent with zoning and the General Plan. He said it has received preliminary approval by the Council in 1994 and is a low density project. He went on to discuss the settlement of a lawsuit and said the applicant has reviewed all conditions of approval, agrees with further refinement in addressing the landslide issues, reiterated the project's

extensive review, the mitigation to fix landslides, and believes it is appropriate to move forward. He further discussed the EIR and its Addendum and Supplemental EIR stating the project has been studied to death.

Vice Mayor Tatzin referred to Mitigation Measure 5 and questioned whether the work will be done at some point. Mr. Bowie said the work may or may not be done, said 40 or more borings have been tested, and if a complete repair is done, it is entirely possible that there may be enough information that an additional boring is not needed, but there has been more investigation done on this property than any other similar project. Doing the boring is not an insignificant expense and they are prepared to accept the condition with the approval of the project. He said the work could cost over $50,000, and Mr. Kropp agreed that 3 large diameter borings would cost approximately $15,000 a piece.

Mayor Anderson reminded the Council that the process of excavating soil may reveal enough to make a good judgment about the stability of the lot. Mr. Kropp agreed, and said not all of the property is being excavated and those areas would need to be evaluated, as well.

Councilmember Anduri observed that the April 2007 minutes indicate that "We (the applicant) felt it would be very unfair to suggest that for one moment there has been inadequate review of soils and geotechnical consideration." It was after this that we found that the investigations were not what they should be and the deeper slide was found, and this was the concern. Mr. Bowie said additional work was done and it was not as though this was not an identified problem.

Councilmember Anduri questioned whether more testing was needed before the repair work is done, and Mr. Kropp said they would recommend additional exploration be done prior to the commencement of the remedial grading.

MITCH WOLFE, Engineering Geologist, said they have been asked to provide the Leamy's with an outside opinion on the work that has been done. He referred to the map showing all locations of the borings tested. In the vicinity of where the road crosses, over 20 methods of exploration have been done and he believes there is a misconception that we do not know much about the general entry of the slide. A large number of test pits have been dug along the perimeter of the slide in an attempt to confine the lateral constraints of the slide and they have a very good handle on what the lateral margins of the slide are. They have learned this is an actual series of shallow slides from two directions that merge into a complex slide. They know the mode of failure and deposition and how they got to 38 feet of slide debris and they know the slide will be confined to the soil materials overlying bedrock. There have been several other borings drilled with a different methodology but they were still able to find the bottom of what they would expect in a slide. Regarding the next step of the project, they are at the conceptual stage where they know how to fix the slide and fine-tune it. Mayor Anderson confirmed with Mr. Wolfe that this mitigation turns over the decision to the City Engineer.

**EXTEND MEETING**

**ACTION**: It was M/S/C (Tatzin/Andersson) to extend the meeting to 1:00 a.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**Public Comments**:

JILL PERGANDE spoke of the Leamy's sincerity and earnestness in acknowledging that the slide needs to be fixed, their commitment and character, and discussed her experience of their property's slide and the cost to repair it.

EDWARD SHAFFER said he submitted a comment letter on the EIR and a letter submitted this afternoon identifying additional issues and concerns. He discussed previous minutes and uncertainty with the landslide issue, said his clients are not opposed to developing the property and the slide repairs but the idea of trusting after the CEQA process is done is not right and he asked the Council to apply the same criteria as done with the Moraga Specific Plan item earlier on the agenda.

MARY HARTFIELD said she lives below the project, supports the development but voiced concern with the stability of the hill behind her house, uncertainty about the landslide, and it seems a new EIR should be done and the borings be done now.

PETER COLBY said he lived below the property, voiced concern with the potential of a development that threatens to end up in his back yard, insufficient investigative work done to date, voice concerns with the amount of soils removed which may exceed 50%, and asked for remediation to be done now and not in the future.

WALTER PRICE said he thinks the project has come a long way thanks to geotechnical work but feels it is still incomplete. He asked for more design detail so he can have his consultant review it. He thinks it is premature to approve a plan before the added work is done. He discussed a drainage system that goes from lot C to the swale next to his property which is at the bottom of the hill next to his tennis court and pool house, and there is no flow analysis to determine whether the swale will be compromised.

PETER CLARK said he lives downhill from the applicant's property, spoke of the meager investigations done over the last year while all geologists agree that large bore drilling is required, said approval now with compliance later is a prescription for shoddy development and eventual disaster and he asked the Council to read the letter from their geologist and lawyer before voting on the project.

MARTHA CLARK said their house is at the base of the hill in question, thanked the Council for asking the right questions, voiced concerns for the safety of their family from a landslide and asked the Council to do everything it can to avoid that risk and did not believe sufficient work has been done.

TIM JOHANSEN said his property is immediately below the slide, said the EIR done in the 1980's mapped this area and found no significant slides whatsoever. From their insistence, finally the slide has been identified and they ask that an EIR be done that addresses this slide and addresses mitigations to repair all aspects associated with it. Until this is done he cannot rest.

Councilmember Anduri said if the Council approves the Supplemental EIR, he confirmed with Mr. Johansen that he would not be concerned that the City Engineer did not call for the testing needing to be done, but that a new EIR needs to be done.

David Bowie said the short answer to comments made is that the City Attorney and staff believe the EIR documentation is complete and in accordance with CEQA requirements. He discussed the conditions of approval, work with geotechnical engineers and the issue of trust and said they

are not asking anyone to trust them. He said if he was a neighbor, he would be in favor of the project due to the repair of the entire landslide. Regarding not having the plans approved until more study is done, he said all that is being approved is final approval of a project that has already received preliminary approval having to do with a subdivision. They must comply with all conditions of approval and there will be additional studies and peer review and there are ample safeguards. Lastly, a CEQA document evaluates project impacts and some impacts are not project-related because the landslide is an existing condition.

The public hearing was closed.

Vice Mayor Tatzin said his concern is not so much the ability to fix the slide as it might be if there was another big surprise and implications that might have for house siting. He also believes the City Engineer will suggest what needs to be done, knows it is expensive but he does not think the project will be in doubt and feels ultimately the project will be approved. He knows doing the work now will be expensive but he also senses that it might be a faster way to get to being able to start building something. Therefore, he suggested everyone think about what is the most efficient way of getting from where we are to an approved project with everyone feeling comfortable that the slides discussed in Mitigation Measure 5 are correctly dealt with.

Mayor Anderson thinks Mitigation Measure 5 addresses the question well in giving the responsibility to the City Engineer and the City's consultant for a solution. The environmental document is meant to assess a project and its impacts, so he did not feel the call for a new EIR was necessary. He felt details on water that may be moved to the swale will come forward, suggested the applicant communicate this to the neighbor when it is done, and he suggested continuing the item.

**ACTION**: It was M/S/C (Tatzin/Andersson) to continue the item to the Meeting of August 11, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**EXTEND MEETING**

**ACTION**: It was M/S/C (Tatzin/Andersson) to extend the meeting to 1:15 a.m. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi, Noes: None, Absent: None).

**10. CONSENT CALENDAR**

**ACTION**: It was M/S/C (Tatzin/Federighi) to approve Consent Calendar Items A, B, C, D, E and F. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None; Absent: None).

**A. Ordinance 575 and Resolution 2008-28 Updating Existing Regulations Regarding Dedication of Land and Payment of Fees for Park and Recreation Purposes and Park Facilities**
Recommendation: Waive second reading of Ordinance 575 and Resolution 2008-28 and adopt.

**B. Agreement for Installation and Maintenance of Existing and New Landscaping between Karel & Anne Fisher and the City of Lafayette, for property located at 363 Read Drive. APN 237-510-001**

Recommendation: Accept agreement and authorize the City Clerk to record.

**C. Agreement for Installation and Maintenance of Existing and New Landscaping between Brad Agler and the City of Lafayette, for property located at 4020 Tilden Lane. APN 249-010-038**
Recommendation: Accept agreement and authorize the City Clerk to record.

**D. EBMUD Reimbursement Agreement for the Mount Diablo Boulevard Pathway from the Lafayette Reservoir to Village Center.**
Recommendation: Authorize staff to enter into a reimbursement agreement with EBMUD.

**E. Agreement for Payment of the Lamorinda Transportation Development Mitigation Fee between Contra Costa Jewish Day School and the City of Lafayette, located at 3800 Mt. Diablo Boulevard. APN 241-010-046.**
Recommendation: Accept agreement.

**F. Code Enforcement Activity Report**
Recommendation: Receive and file.

**11. COUNCIL/COMMISSION REPORTS**
**Councilmember report on activities and consideration of matters a councilmember wishes to initiate for placement on a future agenda.**

**12. WRITTEN COMMUNICATIONS**

**A. E-mail from Gint Federas, County Meet Director for the Contra Costa County Swim Championships, requesting a proclamation recognizing the 48th Annual Contra Costa County Championship Swim Meet being held in Lafayette August 16-17, 2008.**
Recommendation: Discuss and direct staff.

**ACTION**: It was M/S/C (Tatzin/Federighi) to approve a proclamation recognizing the 48th Annual Contra Costa County Championship Swim Meet being held in Lafayette August 16-17, 2008. Vote: 5-0-0 (Ayes: Anderson, Tatzin, Andersson, Anduri, Federighi; Noes: None, Absent: None).

**13. CLOSED SESSION**

**A. Mala Subramanian, City Attorney**
**Conference With Legal Counsel - Existing Litigation**
**(Government Code section 54956.9(a).)**
**David R. Bruzzone, et al. v. City of Lafayette, et al.**
**Contra Costa County Superior Court Case No. C02 02145**
Recommendation: Discuss and direct legal counsel.

**B. Public Employee Performance Evaluation (Gov. Code section 54957)**
**Title: City Manager**

**14. REPORT OF CLOSED SESSION**

City Attorney Subramanian said the Council met in Closed Session and there was no reportable action taken.

**14. ADJOURNMENT**

The Council adjourned at 1:10 a.m. to the next regularly scheduled meeting on Monday, August 11, 2008.

APPROVED:

_____
Mike Anderson, Mayor

ATTEST:

_____
Joanne Robbins, City Clerk